

DOHERTY GEORGESON KERLEY LLP
999 Fifth Avenue, Suite 400
San Rafael, CA 94901
(415) 453-2300

FRANCIS X. DOHERTY (52329)
J. EDWARD KERLEY (175695)
DOHERTY GEORGESON KERLEY LLP
999 Fifth Avenue, Suite 400
San Rafael, CA 94901
(415) 453-2300
(415) 455-0270 Facsimile

ATTORNEYS FOR PLAINTIFF
LA VELDA SINGLETON dba
LOVE AND CARE PRESCHOOL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

LA VELDA SINGLETON dba LOVE
AND CARE PRESCHOOL,

Plaintiff,

v.

TRAVELERS INDEMNITY COMPANY
OF CONNECTICUT,

Defendant.

Case No.: C 08-1852 CW

**DECLARATION OF FRANCIS X.
DOHERTY IN SUPPORT OF
MOTION TO REMAND**

Date: June 5, 2008
Time: 2:00 p.m.
Courtroom 2

1. I am an attorney licensed to practice before all courts and a partner in the law firm of Doherty Georgeson Kerley LLP, the attorneys for La Velda Singleton.

2. A true and correct copy of Mike Baker's February 9, 2006, letter to Singleton ordering the demolition of her school is attached and identified as Exhibit A.

3. A true and correct copy of Kevin Dawson's July 10, 2007, letter to the Hon. William Cahill, Ret. reporting the death of Steven Tilghman is attached and identified as Exhibit B.

4. A true and correct copy of a letter from Judge Westerfield's office setting forth that the mediation took place on November 28, 2007, is attached and identified as Exhibit C.

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1 5. A true and correct copy of the last letter Travelers sent to Singleton, dated
2 December 21, 2007, indicating a willingness to engage in further mediation is attached
3 and identified as Exhibit D.

4 6. True and correct copies of proofs of service of the summons and complaint
5 on Isam Hasenin, Hohback-Lewin, Inc., Chris Morton, Travelers Indemnity Company,
6 Uren Harrison Kennedy Insurance Company, and Walter Springs Construction are
7 attached and identified as Exhibit E.

8 7. True and correct copies of Hohbach-Lewin, Inc.'s answer to the complaint
9 and cross-complaint are attached and identified as Exhibit F.

10 8. On April 8, 2008, Walter Springs Construction filed a demurrer to the
11 complaint and had previously served discovery including notice of the deposition of La
12 Velda Singleton.

13 9. The appraisal panel conducted an appraisal hearing on April 27, 2007. A
14 true and correct copy of the face page of Travelers' exhibits is attached and identified as
15 Exhibit G.

16 I declare under the penalty of perjury under the laws of California that the
17 foregoing is true and correct; and, if called as a witness, I could testify competently
18 thereto. Executed on May 1, 2008, at San Rafael, California.

19
20
21 /S/
FRANCIS X. DOHERTY



CITY OF DUBLIN

100 Civic Plaza, Dublin, California 94568

Website: <http://www.ci.dublin.ca.us>

February 9, 2006

Ms. Lavelda Singleton
8010 Holanda Lane
Dublin, CA 94568

Regarding: 8010 Holanda Lane
Pending Abatement Process

Dear Ms. Singleton:

As we have discussed throughout the past 12 months and as recently as the first week of February 2006, the structure at 8010 Holanda Lane is not structurally sound nor is it habitable, and needs to be demolished. As of today our records indicate a permit has not been pulled to demolish nor construct a new structure. I know your application for a building permit is ready to be issued; however, we are waiting for an approval from DSRSD, Dublin San Ramon Services District.

If there has been no further action on this enforcement case by February 17, 2006, I will have no other choice but to start the abatement process as defined in the DMC, Dublin Municipal Code.

It has always been my intention to help and assist where possible. I will continue to work in that direction, although, I need for you to do whatever is necessary to see that the approval from DSRSD is granted and your building permit is obtained by February 17, 2006.

Should you need to further discuss this matter, you may contact me at (925) 556-4517.

Mike Baker
Senior Building Inspector
City of Dublin
Community Development Department

cc: Chris Wilson
Gregory Shreeve

EXHIBIT A



Professional Insurance Evaluations

2200 Powell Street, Suite 840
Emeryville, California 94608
510/597-0777 • 510/597-1777 (Fax)
www.proadjuster.com

July 10, 2007

Judge William Cahill (Retired)
JAMS
Two Embarcadero Center, Ste. 1500
San Francisco, CA 94111

Via U.S. Mail and Via Facsimile 415/982-5287

RE: JAMS Reference #: 1100049676
Insured: Singleton, La Velda dba Love and Care Preschool
Claim No.: ACH3121
Date of Loss: 11/17/2004
Insurer: Travelers Indemnity Company of Connecticut

Dear Judge Cahill:

It is with regret that I must inform you that the appraiser appointed by Travelers Indemnity Company, Steven Tilghman, has passed away.

We were informed yesterday of such by an attorney in another matter.

As a result, with the pending Correction Petition filed on June 20, 2007 currently unresolved, we would like to propose a protocol that will allow for the fair resolution of this single outstanding issue on the Appraisal of LaVelda Singleton dba Love and Care Preschool vs. Travelers Indemnity Company.

The California Code of Civil Procedure requires that a decision on Correction be issued within 30 days. Because of Mr. Tilghman's untimely demise, we propose to offer a stipulation, to suspend the time for the Panel's decision as of today, July 10, 2007.

We provide the following conditions for said tolling of the 30-day requirement, during the interim, while the stipulation is in effect:

- Travelers Indemnity will agree to this stipulation by Friday July 13, 2007;
- Travelers Indemnity will appoint a replacement appraiser within fifteen (15) days to hear evidence on the items subject to Correction Petition: Building Code & Ordinance, as well as clarification of Emergency Repairs;

EXHIBIT

B

- After appointment of said replacement appraiser, a rehearing will occur within 15 days on the exact issues subject to the Correction Petition;
- The rehearing of evidence will not constitute an opportunity to present new evidence but will be for the purpose of educating the new appraiser and re-educate the Panel on the evidence previously presented on issues subject to the Correction Petition;
- It is our proposal that each party, Travelers Indemnity and Ms. Singleton, have the opportunity to have a rehearing of the evidence on Building Code & Ordinance and the collateral issue of Emergency Repairs, as it relates to the previously issued Appraisal Award;
- After the date for rehearing is set and the evidence submitted, the Panel will have the balance of the 30 days, as required by code, to issue a decision on the correction.

There is no legal obligation for the Petitioner to offer this stipulation, offer a rehearing or to give the Respondent an opportunity to appoint a replacement appraiser; however, given this very unforeseen situation, it is a fair attempt to reasonably resolve the pending request for Correction.

In the alternative, if Travelers Indemnity or their counsel refuses our offer, then we insist that the two remaining members of the Panel meet and confer and issue a decision on the Correction request.

It is well established that only two members of the Panel need sign an Award; if Travelers Indemnity, given the opportunity for a replacement appraiser and rehearing, should refuse our fair and generous efforts the Petitioner's rights should not be jeopardized by said refusal.

In terms of timing, as of this date 20 days has elapsed since our request for a Correction. By tolling the statutory time, until a replacement appraiser is appointed and a rehearing on the evidence occurs, that would provide 10 days to the Panel after the rehearing to act upon our request for Correction.

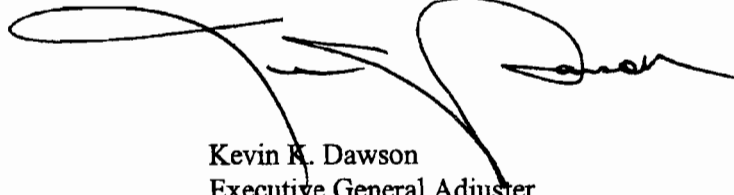
This is a unilateral offer from the insured as we have been unable, to date, to reach agreement on any issue whatsoever with the Respondents; we insist that a response be issued by the Respondent no later than Friday, July 13, 2007; absent a response or acceptance, the Panel must have a decision on our Correction no later than July 19, 2007.

The remainder of the Award: Building Replacement Costs, Actual Cash Value, Debris Removal and Professional Fees, was signed by two Panel members and no objection by Ms. Moody was lodged on those portions of the Award.

Hence, the only outstanding issues, and the subject of our Correction is Building Code & Ordinance and the handling of the Emergency Repair amounts.

Please advise us accordingly, so that we may take the necessary steps to properly protect the rights of Ms. Singleton.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kevin R. Dawson', with a large, sweeping loop on the left side and a smaller loop on the right.

Kevin R. Dawson
Executive General Adjuster
California Insurance License #2C81994

Cc:

Rena Moody, Appraiser

Samuel Ruby, Counsel to Travelers Indemnity

David Goble, Travelers Indemnity



THE RESOLUTION EXPERTS®

April 23, 2008

Francis Doherty, Esq.
Doherty, Georgeson & Kerley LLP
999 5th Avenue
San Rafael, CA 94901

**Re: In re: Love & Care Preschool
JAMS Ref. 1100053082**

Dear Mr. Doherty,

I understand that you currently represent LaVelda Singleton in the above matter. As I explained to your assistant Beth, I am not able to provide you with a copy of the invoice for her mediation last year, since your client was not invoiced for any of the fees.

As Ms. Singleton will attest, a mediation took place on November 28, 2007, before Hon. Rebecca Westerfield (Ret.) here at JAMS.

Sincerely yours,

Anthony R. Sales, Case Manager
HON. REBECCA WESTERFIELD

EXHIBIT

C

01/09/2008 10:07 9254160523

FEDEX KINKOS # 5155

PAGE 02



Allyson Delgado
General Adjuster
Commercial Property—MCU
P.O. Box 55475
Valencia, CA 91385
(661) 290-3352
(661) 290-2960 (fax)

December 21, 2007

La Velda Singleton
Love & Care Preschool
8010 Holanda Lane
Dublin, CA 94568

Re: Insured: Love & Care Preschool
Claim Number: ACH3121
Date of Loss (Reported As): 11/17/2004
Underwriting Company: Travelers Indemnity Company of Connecticut

Dear Ms. Singleton:

We regret that we were unable to resolve the outstanding issues in this claim through mediation.

With respect to the ACV claim, it appears that we continue to disagree over the scope of work that would have been necessary to repair the damage. We understand you believe that the fire rendered the building a total loss. It remains our position that substantial elements of the building were not damaged. As we understand your position, this dispute would not be resolved by any re-appraisal. Rather, each side would present its scope of work, and the panel would simply price those scopes.

We have provided you with a detailed statement of the scope of work that we believe would have been necessary to repair the portions of the building that we found to be damaged. That scope is reflected in the Walter Springs Construction estimate. The cost of that scope of work has been estimated by Walter Springs and Coast Construction. Allowing you the benefit of the doubt, we have paid the ACV claim based on the higher of the two estimates (the Coast estimate). You have never provided any other estimate of the cost of the Walter Springs scope. So, we do not perceive any need for appraisal of the cost of that scope.

We have not received a detailed competing scope of work from you. Although we have received reconstruction drawings and specifications submitted to and approved by the city, those drawings and specifications include various changes to the building's original dimensions, features, and materials. ACV is determined based on the cost to repair or replace "with like kind and quality." If you wish to appraise the ACV of the entire building, please provide drawings and specifications (or a detailed scope of work similar in

EXHIBIT

D

01/09/2008 18:07 9254160523

FEDEX KINKOS # 5155

PAGE 03

Love & Care
12/21/2007
Page 2

format to the Walter Springs scope) reflecting the dimensions, features, and materials of the building as you contend it stood at the time of the fire.

If, despite the unsuccessful mediation, you are interested in exploring a settlement in lieu of appraisal, we would be happy to engage the mediator in further discussions. If you would prefer to return to appraisal, please provide the detailed scope of work that would be appraised at ACV.

It remains our position that no benefits are available under the Replacement Cost and Ordinance or Law coverages until the property is actually repaired or replaced.

Furthermore, we continue to reserve our rights to deny coverage based on the time limits that the policy provides for repair or replacement. Without waiving such rights, we are seeking a meeting with City of Dublin officials to review the outstanding issues concerning the necessary scope of code upgrades. We regret that we were not invited to attend your and/or your representative's meetings with city officials, at which time the issues might have been resolved.

This letter should not be construed as a waiver of any of our rights or your obligations under the policy or the law.

Thank you.

Sincerely,


Allyson Delgado
General Adjuster

CC: Kevin Dawson

7/03/22/08

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): FRANCIS X. DOHERTY (52329) J. EDWARD KERLEY (175695) DOHERTY GEORGESON KERLEY LLP 999 Fifth Avenue, Suite 400, San Rafael, California 94901 TELEPHONE NO.: 415-453-2300 FAX NO. (Optional):		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY APR 09 2008 CLERK OF THE SUPERIOR COURT By JERROLD A. DANN, JR.
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff LA VELDA SINGLETON		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 FALLON STREET MAILING ADDRESS: CITY AND ZIP CODE: ALAMEDA, CA 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: Singleton DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.		CASE NUMBER: RG 08371914
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☐ Alternative Dispute Resolution (ADR) package
 - d. ☐ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
ISAM HASENIN, an individual
- b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served: **1660 MISSION STREET, SAN FRANCISCO, CA 94103**
5. I served the party (check proper box)
 - a. ☒ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **03/11/2008** (2) at (time): **4:30 PM**
 - b. ☐ by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

EXHIBIT

E

PLAINTIFF/PETITIONER: Singleton	CASE NUMBER: 08371914
DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.	

5. c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☒ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☐ On behalf of (specify):

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: Richard Snell
- b. Address: Golden Gate Legal Services, 5 Meadow Avenue, San Rafael, CA 94901
- c. Telephone number: 415-859-6166
- d. The fee for service was: \$59.00
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 865
- (iii) County: San Francisco

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 03/22/2008

Todd Brenneck

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)

D 03/22/08

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): FRANCIS X. DOHERTY (52329) J. EDWARD KERLEY (175695) DOHERTY GEORGESON KERLEY LLP 999 Fifth Avenue, Suite 400, San Rafael, California 94901 TELEPHONE NO.: 415-453-2300 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff LA VELDA SINGLETON	FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY APR 09 2008 CLERK OF THE SUPERIOR COURT By PEDRO V. DATING, JR. Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 FALLON STREET MAILING ADDRESS: CITY AND ZIP CODE: ALAMEDA, CA 94612 BRANCH NAME:	
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 - b. ☒ complaint
 - c. ☐ Alternative Dispute Resolution (ADR) package
 - d. ☐ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
HOHBACK-LEWIN INC., a corporation
- b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
DOUG C. HOHBACK, Registered Agent for Service of Process
4. Address where the party was served: **260 SHERIDAN AVE. #150, PALO ALTO, CA 94306**
5. I served the party (check proper box)
 - a. ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - b. ☒ by substituted service. On (date): **03/12/2008** at (time): **4:55 PM** I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
STACEY ROBERTSON, Receptionist
 - (1) ☒ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☒ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): **03/13/2008** from (city): **San Rafael, CA** or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: Singleton	CASE NUMBER: 08371914
DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.	

5. c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid.
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgement of Receipt.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): HOHBACK-LEWIN INC., a corporation
under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: Todd Brenneck
- b. Address: Golden Gate Legal Services, 5 Meadow Avenue, San Rafael, CA 94901
- c. Telephone number: 415-859-6166
- d. The fee for service was: \$69.00
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 865
- (iii) County: San Francisco

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 03/22/2008

Todd Brenneck
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

p 03/24/08

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address). FRANCIS X. DOHERTY (52329) J. EDWARD KERLEY (175695) DOHERTY GEORGESON KERLEY LLP 999 Fifth Avenue, Suite 400; San Rafael, California 94901 TELEPHONE NO.: 415-453-2300 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff LA VELDA SINGLETON	FOR COURT USE ONLY. ENDORSED FILED ALAMEDA COUNTY APR 09 2008 CLERK OF THE SUPERIOR COURT By PEDRO V. DATING, JR. Deputy
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1. At the time of service I was at least 18 years of age and not a party to this action.
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 - a. ☒ summons
 - b. ☒ complaint
 - c. ☐ Alternative Dispute Resolution (ADR) package
 - d. ☐ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
CHRIS MORTON, an individual
- b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served: **260 SHERIDAN AVE. #150, PALO ALTO, CA 94306**
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STACEY ROBERTSON, Receptionist
 - (1) ☒ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
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PLAINTIFF/PETITIONER: Singleton	CASE NUMBER: 08371914
DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.	

5. c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): HOHBACK-LEWIN INC., a corporation under the following Code of Civil Procedure section:
- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: Todd Brenneck
- b. Address: Golden Gate Legal Services, 5 Meadow Avenue, San Rafael, CA 94901
- c. Telephone number: 415-859-6166
- d. The fee for service was: \$69.00
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 865
- (iii) County: San Francisco

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 03/22/2008

Todd Brenneck
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

MC-030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): FRANCIS X. DOHERTY (52329) J. EDWARD KERLEY (175695) DOHERTY GEORGESON KERLEY LLP 999 Fifth Avenue, Suite 400, San Rafael, California 94901		FOR COURT USE ONLY
TELEPHONE NO.: 415-453-2300 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff LA VELDA SINGLETON		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 FALLON STREET MAILING ADDRESS: CITY AND ZIP CODE: ALAMEDA, CA 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: SINGLETON PETITIONER/RESPONDENT: TRAVELERS INDEMNITY COMPANY OF CONN		
DECLARATION		CASE NUMBER: CIV462415

DECLARATION OF PROCESS SERVER

I am and was on the dates herein mentioned, over the age of eighteen years and not a party to this action.

After due and diligent effort, as enumerated below, I have been unable to effect personal service of the SUMMONS AND COMPLAINT; upon the within named subject CHRIS MORTON, an individual.

03/10/2008 at 11:55 A.M. - Attempted service at business (260 SHERIDAN AVE #150, PALO ALTO, CA 94306).
Subject not in per employee.

03/11/2008 at 9:52 A.M. - Attempted service at business (260 SHERIDAN AVE #150, PALO ALTO, CA 94306).
Subject not in per employee.

03/12/2008 at 4:55 P.M. - Attempted service at business (260 SHERIDAN AVE #150, PALO ALTO, CA 94306).
Subject not in per employee.

03/12/2008 at 4:55 P.M. - SUBSTITUTED SERVICE

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 03/22/2008

Todd Brenneck

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

☐ Attorney for ☐ Plaintiff ☐ Petitioner ☐ Defendant
☐ Respondent ☒ Other (Specify): Process Server
Registered San Francisco # 865

0 03/18/08

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): FRANCIS X. DOHERTY (52329) J. EDWARD KERLEY (175695) DOHERTY GEORGESON KERLEY LLP 999 Fifth Avenue, Suite 400, San Rafael, California 94901 TELEPHONE NO.: 415-453-2300 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff LA VELDA SINGLETON		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY APR 09 2008 CLERK OF THE SUPERIOR COURT By PEDRO V. DATING, JR.
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 FALLON STREET MAILING ADDRESS: CITY AND ZIP CODE: ALAMEDA, CA 94612 BRANCH NAME:		CASE NUMBER: PG 08371914
PLAINTIFF/PETITIONER: Singleton DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.		Ref. No. or File No.:
PROOF OF SERVICE OF SUMMONS		

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☐ Alternative Dispute Resolution (ADR) package
 - d. ☐ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, a corporation
- b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
BECKY DE GEORGE, authorized to accept service
4. Address where the party was served: **2730 GATEWAY OAKS DR #100, SACRAMENTO, CA 95833**
5. I served the party (check proper box)
 - a. ☒ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **03/13/2008** (2) at (time): **7:15 AM**
 - b. ☐ by substituted service. On (date): _____ at (time): _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ from (city): _____ or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: Singleton	CASE NUMBER: 08371914
DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.	

5. c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT**, a corporation under the following Code of Civil Procedure section:
- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: Richard Snell
- b. Address: Golden Gate Legal Services, 5 Meadow Avenue, San Rafael, CA 94901
- c. Telephone number: 415-859-6166
- d. The fee for service was: \$79.00
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 2005-55
- (iii) County: SACRAMENTO

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 03/28/2008

Richard Snell
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

D 03/28/08

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): FRANCIS X. DOHERTY (52329) J. EDWARD KERLEY (175695) DOHERTY GEORGESON KERLEY LLP 999 Fifth Avenue, Suite 400, San Rafael, California 94901 TELEPHONE NO.: 415-453-2300 FAX NO. (Optional):		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY APR 09 2008 CLERK OF THE SUPERIOR COURT By PEDRO V. DANTON JR.
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff LA VELDA SINGLETON		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 FALLON STREET MAILING ADDRESS: CITY AND ZIP CODE: ALAMEDA, CA 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: Singleton DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.		
PROOF OF SERVICE OF SUMMONS		CASE NUMBER: LG 08371914 Ref. No. or File No.:

(Separate proof of service is required for each party served.)

- At the time of service I was at least 18 years of age and not a party to this action.
- I served copies of:
 - ☒ summons
 - ☒ complaint
 - ☐ Alternative Dispute Resolution (ADR) package
 - ☐ Civil Case Cover Sheet (served in complex cases only)
 - ☐ cross-complaint
 - ☐ other (specify documents):
- Party served (specify name of party as shown on documents served):
UREN HARRISON KENNEDY INSURANCE COMPANY, a corporation
 - ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
CHRISTOPHER E. UREN, Registered Agent for Service of Process
- Address where the party was served: **3211 AUTO PLAZA DRIVE, RICHMOND, CA 94806**
- I served the party (check proper box)
 - ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - ☒ by substituted service. On (date): **03/13/2008** at (time): **4:45 PM** I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
KATIE PALFINI, Customer Sales Representative
 - ☒ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - ☒ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): **03/13/2008** from (city): **San Rafael, CA** or ☐ a declaration of mailing is attached.
 - ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: Singleton	CASE NUMBER: 08371914
DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.	

5. c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): **UREN HARRISON KENNEDY INSURANCE COMPANY**, a corporation under the following Code of Civil Procedure section:
- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: Richard Snell
- b. Address: Golden Gate Legal Services, 5 Meadow Avenue, San Rafael, CA 94901
- c. Telephone number: 415-859-6166
- d. The fee for service was: \$69.00
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 2005-55
- (iii) County: SACRAMENTO

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 03/28/2008

Richard Snell
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

D 03/22/08

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): FRANCIS X. DOHERTY (52329) J. EDWARD KERLEY (175695) DOHERTY GEORGESON KERLEY LLP 999 Fifth Avenue, Suite 400, San Rafael, California 94901 TELEPHONE NO.: 415-453-2300 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff LA VELDA SINGLETON		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY APR 09 2008 CLERK OF THE SUPERIOR COURT By PEDRO V. DATING, JR. Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 FALLON STREET MAILING ADDRESS: CITY AND ZIP CODE: ALAMEDA, CA 94612 BRANCH NAME:		
PLAINTIFF/PETITIONER: Singleton DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.		CASE NUMBER: RG 08371914
PROOF OF SERVICE OF SUMMONS		Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. ☒ summons
 - b. ☒ complaint
 - c. ☐ Alternative Dispute Resolution (ADR) package
 - d. ☐ Civil Case Cover Sheet (served in complex cases only)
 - e. ☐ cross-complaint
 - f. ☐ other (specify documents):
3. a. Party served (specify name of party as shown on documents served):
WALTER SPRINGS CONSTRUCTION, a corporation
- b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
MEL SPRINGS, President
4. Address where the party was served: **881 HURLINGAME AVE, REDWOOD CITY, CA 94063**
5. I served the party (check proper box)
 - a. ☐ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - b. ☒ by substituted service. On (date): **03/12/2008** at (time): **4:15 PM** I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
CHERIE GAFF, Office Manager
 - (1) ☒ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☒ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): **03/12/2008** from (city): **San Rafael, CA** or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2

PLAINTIFF/PETITIONER: Singleton	CASE NUMBER: 08371914
DEFENDANT/RESPONDENT: Travelers Indemnity Company of Connecticut, et al.	

5. c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): **WALTER SPRINGS CONSTRUCTION**, a corporation
under the following Code of Civil Procedure section:
- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: Todd Brenneck
- b. Address: Golden Gate Legal Services, 5 Meadow Avenue, San Rafael, CA 94901
- c. Telephone number: 415-859-6166
- d. The fee for service was: \$69.00
- e. I am:
- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ a registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: 865
- (iii) County: San Francisco

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 03/22/2008

Todd Brenneck

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)

JAMES PATRICK CASTLES (SBN 70414)
RICHARD C. YOUNG (SBN 215407)
ROBLES & CASTLES
540 Pacific Avenue
San Francisco, California 94133
Telephone: 415) 743-9300
Facsimile: (415) 743-9305

RECEIVED
APR - 4 2008

Attorneys for Defendant and Cross-Complainant
HOHBACH-LEWIN, INC.

**IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

LA VELDA SINGLETON dba LOVE AND
CARE PRESCHOOL, an individual,

Plaintiff,

vs.

TRAVELERS INDEMNITY COMPANY
OF CONNECTICUT, et al,

Defendants.

HOHBACH-LEWIN, INC.,

Cross-complainant,

vs.

TRAVELERS INDEMNITY COMPANY
OF CONNECTICUT, ALLYSON
DELGADO, UREN HARRISON
INSURANCE AGENCY, ISAM
HASENIN, MURAT ZILINSKI, WALTER
SPRINGS CONSTRUCTION, TEXTRON
FINANCIAL, BANK OF THE WEST,
DOES 1-30, and MOES 1-10,

Cross-defendants.

CASE NO. RG08371914

ASSIGNED FOR ALL PURPOSES TO
JUDGE Cecilia P. Castellanos
DEPARTMENT 18

**HOHBACH-LEWIN, INC.'S ANSWER
TO PLAINTIFF'S COMPLAINT**

Defendant and Cross-complainant HOHBACH-LEWIN, INC. ("Defendant" or "HOHBACH-LEWIN") responds to the unverified Complaint ("Complaint") of Plaintiff LA VELDA SINGLETON dba LOVE AND CARE PRESCHOOL ("Plaintiff") as follows:

Pursuant to Code of Civil Procedure section 431.30(d), HOHBACH-LEWIN generally denies the allegations of Plaintiff's unverified Complaint, and further denies that Plaintiff or any other party in

EXHIBIT F

1 this case has been damaged or injured in any way by any act or omission of HOHBACH-LEWIN.
2 HOHBACH-LEWIN hereby further asserts the following additional separate and affirmative defenses
3 against Plaintiff's unverified Complaint:

4 FIRST ADDITIONAL AFFIRMATIVE DEFENSE

5 Each and every cause of action in the Complaint fails to allege facts sufficient to constitute
6 claims for relief against HOHBACH-LEWIN.

7 SECOND ADDITIONAL AFFIRMATIVE DEFENSE

8 Each and every cause of action in the Complaint is barred in whole or in part by the doctrine of
9 waiver.

10 THIRD ADDITIONAL AFFIRMATIVE DEFENSE

11 Each and every cause of action in the Complaint is barred in whole or in part by the doctrine of
12 estoppel.

13 FOURTH ADDITIONAL AFFIRMATIVE DEFENSE

14 Each and every cause of action in the Complaint is barred in whole or in part by the doctrine of
15 unclean hands.

16 FIFTH ADDITIONAL AFFIRMATIVE DEFENSE

17 Each and every cause of action in the Complaint is barred in whole or in part by the doctrine of
18 laches.

19 SIXTH ADDITIONAL AFFIRMATIVE DEFENSE

20 Each and every cause of action in the Complaint is barred by the applicable statutes of limitation
21 set forth in the California Code of Civil Procedure, including California Code of Civil Procedure
22 sections 339 and 343.

23 SEVENTH ADDITIONAL AFFIRMATIVE DEFENSE

24 Plaintiff consented to the acts and events set forth in each and every cause of action in the
25 Complaint.

26 EIGHTH ADDITIONAL AFFIRMATIVE DEFENSE

27 Plaintiff and/or Plaintiff's agents, employees, servants and representatives failed and neglected to
28 use reasonable care to protect Plaintiff and to mitigate, minimize, or otherwise avoid the Plaintiff's

1 injuries, losses, damages, or expenses, if any, although it had reasonable opportunities to do so.

2 NINTH ADDITIONAL AFFIRMATIVE DEFENSE

3 Plaintiff and/or Plaintiff's agents, employees, servants and representatives were themselves
4 careless and negligent, thereby causing and contributing to Plaintiff's injuries, losses, damages, or
5 expenses, if any.

6 TENTH ADDITIONAL AFFIRMATIVE DEFENSE

7 The sole cause of Plaintiff's injuries, losses, damages, or expenses, if any, was the result of
8 conduct on the part of persons and/or entities other than HOHBACH-LEWIN.

9 ELEVENTH ADDITIONAL AFFIRMATIVE DEFENSE

10 If HOHBACH-LEWIN is held liable to Plaintiff, which liability is expressly denied, and any
11 defendants or other defendants are likewise held liable, HOHBACH-LEWIN is entitled to a percentage
12 contribution of the total liability from said defendants and defendants in accordance with principles of
13 equitable indemnity and comparative contribution to ensure that HOHBACH-LEWIN's liability does
14 not exceed its proportionate share of fault.

15 TWELFTH ADDITIONAL AFFIRMATIVE DEFENSE

16 If HOHBACH-LEWIN is held liable for non-economic damages, which liability is expressly
17 denied, such liability should be limited pursuant to the Fair Responsibility Act of 1986, Section 1431.2
18 of the Civil Code, in direct proportion to HOHBACH-LEWIN's percentage of fault, if any.
19 HOHBACH-LEWIN prays for a separate judgment in the amount of any such non-economic damages as
20 determined by the trier of fact.

21 THIRTEENTH ADDITIONAL AFFIRMATIVE DEFENSE

22 The acts and/or omissions of other defendants and defendants, and other persons and/or entities,
23 proximately caused and contributed to Plaintiff's injuries, losses, damages, or expenses, if any, and such
24 acts and/or omissions were intervening and superceding causes of such injuries, losses, damages, or
25 expenses, if any, thus barring or diminishing any recovery against HOHBACH-LEWIN. HOHBACH-
26 LEWIN prays for a judgment and a declaration of indemnity and/or contribution against all parties in
27 accord with apportionment of fault. Plaintiff's recovery, if any against HOHBACH-LEWIN, therefore,
28 should be abated, reduced or eliminated in accordance with the holdings of *Li v. Yellow Cab Co.* (1975)

13 Cal. 3d 804, and *American Motorcycle Association v. Superior Court* (1978) 20 Cal 3d 578.

2 FOURTEENTH ADDITIONAL AFFIRMATIVE DEFENSE

3 Plaintiff lacks standing to bring this lawsuit.

4 FIFTEENTH ADDITIONAL AFFIRMATIVE DEFENSE

5 Agents of an insurance company do not owe the duty of the covenant of good faith and fair
6 dealing to an insured and cannot be held liable for the breach of the covenant of good faith and fair
7 dealing to an insured, and therefore cannot be liable for aiding and abetting the breach of the covenant of
8 good faith and fair dealing to an insured.

9 WHEREFORE, HOHBACH-LEWIN prays:

- 10 1. That Plaintiff take nothing by the Complaint;
11 2. That HOHBACH-LEWIN be dismissed;
12 3. For cost of suit, together with attorney fees;
13 4. That the degree of responsibility for damages, if any, be determined and apportioned in
14 proportion to comparative fault of the liable tortfeasors; and
15 5. For such other and further relief as the Court may deem just and proper.

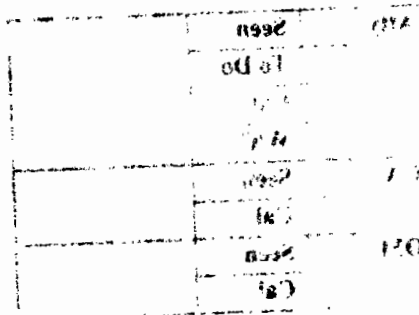
16 DATED: April 4, 2008

ROBLES & CASTLES

17
18 By: 

RICHARD C. YOUNG

19 Attorneys for Defendant and Cross-Complainant
20 HOHBACH-LEWIN, INC.
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RECEIVED
APR - 4 2008

Attorneys for Defendant and Cross-Complainant
HOHBACH-LEWIN, INC.

**IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

LA VELDA SINGLETON dba LOVE AND
CARE PRESCHOOL, an individual,

Plaintiff,

vs.

TRAVELERS INDEMNITY COMPANY
OF CONNECTICUT, et al,

Defendants.

HOHBACH-LEWIN, INC.,

Cross-complainant,

vs.

TRAVELERS INDEMNITY COMPANY
OF CONNECTICUT, ALLYSON
DELGADO, UREN HARRISON
INSURANCE AGENCY, ISAM
HASENIN, MURAT ZILINSKI, WALTER
SPRINGS CONSTRUCTION, TEXTRON
FINANCIAL, BANK OF THE WEST,
DOES 1-30, and MOES 1-10,

Cross-defendants.

CASE NO. RG08371914

ASSIGNED FOR ALL PURPOSES TO
JUDGE Cecilia P. Castellanos
DEPARTMENT 18

**HOHBACH-LEWIN, INC.'S CROSS-
COMPLAINT AGAINST TRAVELERS
INDEMNITY COMPANY OF
CONNECTICUT, ALLYSON DELGADO,
UREN HARRISON INSURANCE
AGENCY, ISAM HASENIN, MURAT
ZILINSKI, WALTER SPRINGS
CONSTRUCTION, TEXTRON
FINANCIAL, BANK OF THE WEST,
DOES 1-30, and MOES 1-10**

Defendant/Cross-Complainant HOHBACH-LEWIN, INC. ("HOHBACH-LEWIN") alleges as follows:

1. On February 19, 2008, plaintiff LA VELDA SINGLETON dba LOVE AND CARE PRESCHOOL filed her complaint ("Complaint") against defendants in Alameda County Superior Court as RG08371914. The allegations of plaintiff's Complaint against HOHBACH-LEWIN are hereby

PRAYER

WHEREFORE, HOHBACH-LEWIN prays for judgment as follows:

For The First and Second Causes of Action:

1. For a judicial determination and judgment against Cross-Defendants that HOHBACH-LEWIN be indemnified, either fully or partially, and held harmless from and against any judgment rendered against it, and for any claims, losses, costs, damages, attorney fees, judgments and/or settlement expenses incurred by HOHBACH-LEWIN in connection with plaintiff's Complaint against HOHBACH-LEWIN in an amount to conform to proof at trial;
2. For judgment against Cross-Defendants in an amount that is proportional to the percentage of proportional fault attributable to each of Cross-Defendants;
3. For cost of suit; and
4. For such other and further relief as the court deems just and proper.

DATED: April 4, 2008

ROBLES & CASTLES

By: 

Richard C. Young
Attorneys for Defendant/Cross-Complainant
HOHBACH-LEWIN, INC.

PROOF OF SERVICE

SINGLETON v. TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, ET. AL.

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Robles & Castles, 540 Pacific Ave, San Francisco, CA 94133. On April 4, 2008, I served the following documents:

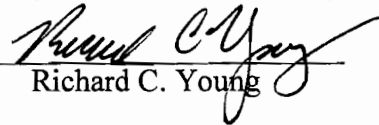
HOHBACH-LEWIN, INC.'S ANSWER TO SINGLETON'S CROSSCOMPLAINT

HOHBACH-LEWIN, INC.'S CROSS-COMPLAINT AGAINST TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, ALLYSON DELGADO, UREN HARRISON INSURANCE AGENCY, ISAM HASENIN, MURAT ZILINSKI, WALTER SPRINGS CONSTRUCTION, TEXTRON FINANCIAL, BANK OF THE WEST, DOES 1-30, and MOES 1-10



By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at College Avenue, Berkeley, California, addressed as set forth on the service list below.

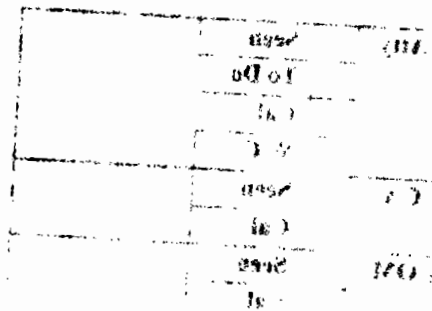
I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration is executed on April 4, 2008 at San Francisco, California.


Richard C. Young

SERVICE LIST

Francis X. Doherty, Esq.
J. Edward Kerley, Esq.
Doherty Georgeson Kerley LLP
999 Fifth Avenue, Suite 400
San Rafael, CA 94901

Attorneys for Plaintiff



JAMS File No. 1100049676

Hearing Date: April 27, 2007
Time: 9:30 a.m.
Umpire: Hon. William Cahill (Ret.)

In The Matter Of

Appraisal of Travelers Insurance Claim No. ACH3121

Insured: *La Velda Singleton dba Love & Care Preschool*

Loss Location: *8010 Hollanda Lane, Dublin*

Date of Loss: *November 17, 2004*

Travelers' Exhibits

Samuel H. Ruby, Esq.
Bullivant Houser Bailey PC
601 California Street, Suite 1800
San Francisco, CA 94018
Tel: (415) 352-2700
Fax: (415) 352-2701
Email: samuel.ruby@bullivant.com

EXHIBIT

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